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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/054,477	01/18/2002	Michael C. Stewart	80121-05730	5572

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EXAMINER

KASZTEJNA, MATTHEW JOHN

ART UNIT	PAPER NUMBER
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3739

DATE MAILED: 03/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/054,477	Applicant(s) STEWART ET AL.	
	Examiner Matthew J Kasztejna	Art Unit 3739	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-83 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-83 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-17, 42, 43-53, 57-63 and 80-83, drawn to an dissecting endoscope with a blunt transparent tip, classified in class 600, subclass 129.
 - II. Claims 18-41, 53-56 and 78-79, drawn to a cannula with a surgical effector for vessel harvesting, classified in class 600, subclass 114.
 - III. Claims 64-66, drawn to an endoscope with a utilization device, classified in class 600, subclass 104.
 - IV. Claims 67-77, drawn to and endoscope with a cannula, classified in class 604, subclass 164.11.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, III or IV, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143). Applicant is reminded that upon the cancellation of claims to

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a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

2. If applicant elects Group I, the application further contains claims directed to the following patentably distinct species of the claimed invention:

Species A: a dissecting endoscope with a tissue dilator having facted surfaces (Figs. 1b, 3a-f, 4).

Species B: a dissecting endoscope with the distal end of the tissue dilator displaced proximally from the tip (Figs. 2b-c).

Species C: a dissecting endoscope with a press-lock or snap-fit attachment structure (Fig. 6a-b).

Species D: a dissecting endoscope with a lever-actuated locking device (Fig. 6c).

3. If applicant elects Group II, the application further contains claims directed to the following patentably distinct species of the claimed invention:

Species i: a vessel harvester having a cannula to receive a dissecting endoscope (Figs. 8-9).

Species ii: a vessel harvester having a cannula to receive a dissecting endoscope with various rotational tissue cutters facilitated by configuring the distal end of the cannula (Figs. 13-16, 18).

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Species iii: a vessel harvester having a cannula to receive a dissecting endoscope with a blade or forceps jaw slidably mounted in the distal end of the cannula (Figs. 17, 20a-b).

Species iv: a vessel harvester having a cannula to receive a dissecting endoscope with a electrocauterizing coil mounted in the distal end of the cannula (Figs. 21a-b).

Species v: a vessel harvester having a cannula to receive a dissecting endoscope with a pair of resilient wire electrodes formed in various configurations at the distal end of the cannula (Figs. 24a-l, 25a-d).

Species v: a vessel harvester having a cannula to receive a dissecting endoscope having a surgical effector with a fork-like device formed at the distal end of the cannula for vessel retraction (Figs. 26-31).

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims are generic for either Group I or II should either be elected.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J Kasztejna whose telephone number is (571) 272-6086. The examiner can normally be reached on Mon-Fri, 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C.M. Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

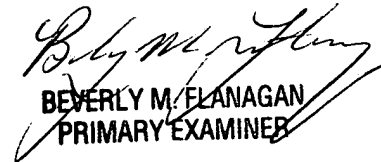
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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MJK

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BEVERLY M. FLANAGAN
PRIMARY EXAMINER